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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,865	09/09/2003	Thomas J. Gretz	1651(Arl)	2067

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EXAMINER

ESTRADA, ANGEL R

ART UNIT	PAPER NUMBER
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2831

DATE MAILED: 01/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/657,865

Applicant(s)

GRETZ, THOMAS J.

Examiner

Angel R. Estrada

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9/9/03. 6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 19 line 20, "said prepackage mounting assembly", lacks antecedent basis.

Any further rejections of claim 19 in this office action is based on claim 19, as it is understood by the examiner.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 11 and 15-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Jorgensen (US 4,892,211).

Regarding claim 1, Jorgensen discloses a prepackaged mounting assembly (see figure 1) for securing a fixture (50) of the type having a connection member and apertures therein to an overhead support (see figure 3) comprising: an electrical junction box (10) including a top wall (12) having a top surface and a bottom surface

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(see figure 3); said top wall (12) including a downward extending peripheral side wall (14) having a bottom edge and defining an interior volume (see figure 1); a first opening (31) in said electrical junction box (10) extending from said bottom surface (see figure 1); a first fastener (44,42) frictionally engaged in said first opening (31); apertures (46) in said top wall (12); integral extensions (16, 18) on said side wall (14) extending into said interior volume (see figures 1 and 3), said integral extensions (16,18) including apertures (40) in vertical alignment with said apertures (46) in said top wall (12); a second opening (32) in said electrical junction box (10) extending from said bottom surface (see figure 1); and an initial fastener (not shown) frictionally engaged in said second opening (column 2 lines 43-50), said initial fastener (not shown) can extend no further than said top surface of said electrical junction box (10) whereby said top surface of said electrical junction box (10) is placed against said overhead support, said initial fastener (not shown) in said second opening (32) is tightened into said overhead support thereby initially securing said electrical junction box (10) to said support (column 2 lines 44-50) and positioning said bottom edge of said side wall in a horizontal plane (see figure 3), said apertures (see figure 3) in said connection member (50) are aligned with said apertures (40) in said internal extensions (16, 18) of said electrical junction box (10), thereby allowing said first fastener (44) to be removed from said first opening (31) and moved to and driven through said apertures (see figure 3) in said connection member (50), said apertures (40) in said integral extensions (16, 18), said apertures (46) in said top wall (12), and into said overhead support to secure said fixture to said support (see figure 3).

Note: The recitation *"for temporary storage of said first fastener with said electrical junction box prior to installation"* has not been given patentable weight because it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

Regarding claim 2, Jorgensen discloses the prepackaged mounting assembly (see figure 1) wherein said apertures (46) in said top wall and said apertures (40) in said integral extensions are adjacent said peripheral side wall (14, or see figure 3).

Regarding claim 3, Jorgensen discloses the prepackaged mounting assembly (see figure 1) wherein said first fastener (44) is of a first width (see figure 3), said aperture (40) in said integral extension (16,18) is of a second width (see figure 3), and said aperture (46) in said top wall is of a third width (see figure 3).

Regarding claim 4, Jorgensen discloses the prepackaged mounting assembly (see figure 1) wherein said first width of said first fastener (44) is less than or equal to said second width (see figure 3) of said aperture (40) in said integral extension (14,16).

Regarding claim 5, Jorgensen discloses the prepackaged mounting assembly (see figure 1) wherein said first width of said first fastener (44) is less than or equal to said third width (see figure 3) of said aperture (46) in said top wall (12).

Regarding claim 6, Jorgensen discloses the prepackaged mounting assembly (see figure 1) wherein said first width (see figure 3) of said first fastener (44), said second width (see figure 3) of said aperture (40) in said integral extension (16,18), and

said third width (see figure 3) of said aperture (46) in said top wall (12) enable said first fastener (44) to be driven through said apertures (40,46) with minimal contact between said first fastener (42,44) and said aperture (46) in said top wall (12) and said aperture (40) in said integral extension (16,18), thereby forcing all of the suspended load to be supported by said overhead support.

Regarding claim 7, Jorgensen discloses the prepackaged mounting assembly (see figure 1) wherein said electrical junction box (10) is constructed of metal (column 3 lines 40-42).

Regarding claim 8, Jorgensen discloses the prepackaged mounting assembly (see figure 1) wherein said electrical junction box (10) is constructed of galvanized steel (column 3 lines 40-42).

Regarding claim 9, Jorgensen discloses the prepackaged mounting assembly (see figure 1) wherein said electrical junction box (10) can be constructed of zinc plated 1010 steel (column 3 lines 59-63).

Regarding claim 11, Jorgensen discloses the prepackaged mounting assembly (see figure 1) wherein said top wall (12) includes offset areas (20-24) that are capable of being knockout out to form openings in said top wall (12) for entry of electrical cable (column 2 lines 37-43).

Regarding claim 15, Jorgensen discloses the prepackaged mounting assembly (see figure 1) wherein said bottom edge of said peripheral side wall (14) is circular (see figure 5).

Regarding claim 16, Jorgensen discloses the prepackaged mounting assembly (see figure 1) wherein said circular peripheral side wall (14) includes an outer diameter between 3.25 and 5.25 inches (column 3 lines 40-42).

Regarding claim 17, Jorgensen discloses the prepackaged mounting assembly (see figure 1) wherein said interior volume is between 5.0 and 20.0 cubic inches (see figure 3).

Regarding claim 18, Jorgensen discloses the prepackaged mounting assembly (see figure 1) wherein said bottom edge of said downward extending peripheral wall (14) reside in a plane; said first fasteners (44, 42) include a point end and a head end (see figure 3); said point ends extend upward from said top surface of said top wall (12); and said head ends (45) extend downward from said bottom surface of said top wall no further than said plane (see figure 3).

Regarding claim 19, Jorgensen discloses a method of attaching a fixture (50) of the type having a connection member and apertures therein to an overhead support comprising: providing a metallic electrical junction box (10) including a top wall (12) having a top surface and a bottom surface (see figure 3); providing a peripheral side wall (14) extending downward from said top wall (12) and having a planar bottom edge and defining an interior volume (see figure 3); providing a first opening (31) in said electrical junction box (10) extending from said bottom surface (see figure 1); providing a first fastener (44) frictionally engaged in said first opening (31); providing apertures (46) in said top wall (12); providing integral extensions (16,18) on said side wall (14) extending into said interior volume (see figure 1), said integral extensions (16,18)

including apertures (40) in vertical alignment with said apertures (46) in said top wall (12); providing a second opening (32) in said electrical junction box (10) extending from said bottom surface (see figure 1); providing an initial fastener (not shown) frictionally engaged in said second opening (column 2 lines 44-50), said initial fastener (not shown) can extend no further than said top surface of said electrical junction box (10); providing a knockout area (20-24) in said top wall (see figure 1); placing said electrical junction box (10) against said overhead support such that said apertures (46) in said top wall are against said overhead support; securing said electrical box (10) to said overhead support by rotating said initial fastener (not shown) into said overhead support (column 2 lines 44-50); removing said knockout area (20-24) from said top wall to form a cable opening (column 2 lines 37-40); removing said first fastener (44) from said first opening (31); installing electrical cable including wiring leads through said cable opening into said interior volume (column 3 lines 37-43); connecting said wiring leads to said fixture; aligning said apertures (see figure 3) of said connection member of said fixture (50) with said apertures (40) in said internal extensions (16,18); securing said fixture (50) to said overhead support by installing said first fasteners (44) through said apertures (40) in said integral extensions (16,18), through said apertures in said top wall, and into said overhead support (see figure 3).

Note: The recitation *"for temporary storage of said first fastener with said electrical junction box prior to installation"* has not been given patentable weight because it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from

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a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Jorgensen (US 4,892,211).

Regarding claim 10, Jorgensen discloses the claimed invention except for the metal is between 0.50 and 0.090 inches in thickness. It would have been an obvious matter of design choice to make the electrical junction box of a metal having between 0.50 and 0.090 inches in thickness, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re. Rose, 105 USPQ 237 (CCPA 1955).

4. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jorgensen (US 4,892,211) in view of Reiker (US 6,303,862).

Regarding claim 12, Jorgensen discloses the claimed invention except for said first opening includes a peripheral wall extending downward from said bottom surface of said top wall. Reiker teaches a mounting assembly (see figure 8) for securing a fixture comprising a junction box (100) including a top wall having a bottom surface and a top surface; said top wall (14) having a first opening (112) including a peripheral wall (108) extending downward from said bottom surface of said top wall (see figure 8). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make Jorgensen's first opening with a peripheral wall extending downward from said bottom surface of said top wall as taught by Reiker to provide the first opening with a peripheral wall that would act as a support mean for the first fastener to firmly secured the first fastener to the junction box.

Regarding claim 13, Reiker teaches the peripheral wall of said first opening having a smooth inner surface (see figure 9).

Regarding claim 14, Jorgensen discloses the prepackaged mounting assembly (see figure 1) wherein said first fastener (44) is a self- threading screw (see figure 3).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reiker (US 5,854,443), Schnell et al (US 6,107,568), Jorgensen et al (US 5,234,119), Gretz (US 5,939,671, US 6,191,362, US 6,355,883, US 6,509,524, US 6,632,998, 6,646,201) and Roesch (US 5,522,577) disclose a mounting assembly for securing a fixture.

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6. Any inquiry concerning this communication should be directed to Angel R. Estrada at telephone number (703) 305-0853. The Examiner can normally be reached on Monday-Friday (8:30 -5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (703) 308-3682. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

AE

January 13, 2004

A handwritten signature in black ink, appearing to read "Anthony Dinkins", with a large, stylized loop at the end.

ANTHONY DINKINS
PRIMARY EXAMINER